IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3091 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DAHYABHAI KHAYABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 3091 of 1999

MR MK VAKHARIA for Petitioner No. 1

MR VM PANCHOLI, Ld.ADDL. PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 12/04/2002

ORAL JUDGEMENT

#. Heard the learned advocates for the parties and perused the papers. This is an application filed by the applicant - original accused facing the offence registered as CR No.15/1996 before the Himmatnagar Police

Station in Sabarkantha District for the offences punishable under the Prevention of Corruption Act.

#. While passing an order dated 13.2.2002 this Court has considered a decision of Satya Narayan Sharma vs. State of Rajasthan, reported in 2001 AIR SCW P.3818, and ad interim relief was vacated while considering the said decision of the said Court.

#. Having regard to the facts and circumstances of the case and considering the factual data provided in the FIR it appears that at this stage it cannot be said that the petitioner is not Public Servant and, therefore, the offence against him cannot be registered under the Prevention of Corruption Act, 1988. It would, however, be open to the applicant to take such a contention before the trial Court when the trial begins.

#. In above view of the matter, when no other point has been conveyed, this application does not survive and, therefore, it is dismissed with liberty to the applicant as aforesaid. Rule is discharged.

(D. P. BUCH, J.)

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